FILED
January 20, 2011
CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0003223737

2

L.J. LOHEIT, TRUSTEE
NEIL ENMARK, #159185, attorney for Trustee
TALVINDER S. BAMBHRA, #230907, attorney for Trustee
P.O. Box 1858
Sacramento, California 95812-1858
(916) 856-8000

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

IN RE: RICHARD SIMON ACOSTA, Debtor(s)	Case No: 10-50934-E-13L DCN: NLE-1 TRUSTEE'S OBJECTION TO CONFIRMATION DATE: FEBRUARY 8, 2011 TIME: 1:30 P.M. JUDGE: SARGIS COURTROOM: 33

LAWRENCE J. LOHEIT, TRUSTEE, objects to confirmation of the Debtor(s) plan and does not recommend its confirmation.

The Trustee objects to confirmation as:

1. It appears that the Debtor cannot make the payments required under 11 U.S.C. § 1325(a)(6).

On Schedule I, Debtors list their gross monthly income, but fail to allow for State, Federal and Local Tax deductions. Schedule J also does not include an expense for tax deposits.

Debtor's Amended Schedule I filed January 19, 2011, Court Docket #21, shows $1976.00 per month of Debtor's income is from contribution from roommate, however, Debtor has failed to provide a Declaration by the contributor in support of such claim. Debtor's plan payment is $2,730.84 as proposed.

2. Debtor lists on Schedule D secured creditor Patelco Credit Union with a balance of $10,734.11 secured by a 2004 Volkswagon Passat. Debtor's plan indicates that the debt will outlast the length of the 36 month plan and therefore should be paid in Class 4 by Debtor. However, Class 4 of the plan shows the contractual payments on the loan are $350.00 per month, if you divide the balance of the loan by the amount of the monthly payment, there is 30 months remaining on the loan and therefore, the claim should be paid in Class 2 of the plan.

WHEREFORE the movant prays that the Court enter an order denying confirmation of the Debtor(s) plan, and an order dismissing the case if a new plan is not filed within a reasonable time.

Dated: JANUARY 20, 2011

/s/ Neil Enmark
NEIL ENMARK, Attorney for Trustee